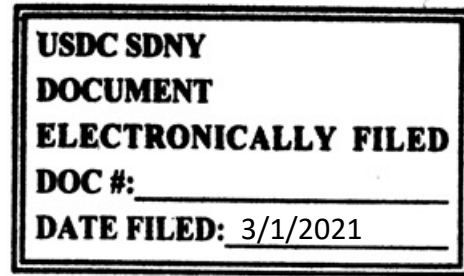


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
DANIEL KLEEBERG, et al.,

Plaintiffs,

16-CV-9517 (LAK) (KHP)

-against-

**ORDER PROVIDING ADDITIONAL  
DETAILS ON UPCOMING ORAL  
ARGUMENT**

THE ESTATE OF LESTER EBER, et al.,

Defendants.

-----X  
**KATHARINE H. PARKER, United States Magistrate Judge:**

Per ECF No. 342, oral argument is scheduled to take place in the above-captioned action this coming Friday. In order to provide the parties with some guidance as to the scope of the upcoming argument, the court notes a set of topics the parties should be prepared to discuss below.

The topics/questions to be addressed will include, but may not be limited to:

- **Whether beneficiary consent is an affirmative defense that must be specifically pleaded and whether Defendants did so in light of affirmative defense numbers 1, 3, 4 or 15, or any others that may be applicable;**
- **The duties Lester owed to Plaintiffs at the time of the 2012 foreclosure transaction and whether those duties depend on the ownership structure of EBWLC;**
- **Whether the ownership structure of EBWLC materially impacts who could have consented to the 2012 foreclosure transaction;**
- **If the Court were to unwind the 2012 foreclosure transaction and create a constructive trust, how that ruling would impact the remaining claims in the case; and**
- **Whether the Trust's ownership interest in EBWLC could impact the share distribution ordered by the Surrogate Court.**

**SO ORDERED.**

DATED: New York, New York  
March 1, 2021



---

KATHARINE H. PARKER  
United States Magistrate Judge